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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,054	08/09/2005	Ruediger Eichler	17413-0003	3139
7590 Thomas D MacBlain Gallagher & Kennedy 2575 E Camelback Road Phoenix, AZ 85016		08/29/2007	EXAMINER CHEN, VICTORIA W	
			ART UNIT	PAPER NUMBER 3739
			MAIL DATE 08/29/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/525,054	EICHLER, RUEDIGER	
	<b>Examiner</b>	<b>Art Unit</b>	
	Victoria W. Chen	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 March 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 17 February 2005 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments, see Remarks, filed 3/19/07, with respect to the rejection(s) of claim(s) 1-11 under 35 U.S.C. 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Francis (US 3993048) and Kopecky (US 3590810).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 2, 4, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Francis (US 3993048).**

Regarding claim 1, Francis discloses a measuring electrode arrangement having one measuring electrode [10] having a storage space [12] arranged on the side of the electrode facing away from the measurement object, the storage space containing a contact medium [18], the electrode being partially permeable to the contact medium, the contact medium containing ions in a solvent in solution wherein the ions can penetrate through the electrode and the measuring electrode is impermeable for the solvent [col. 2, ll. 15-20].

Regarding claim 2, Francis discloses the contact medium as being a liquid [18].

Regarding claim 4, Francis discloses the storage space is bordered by a plastic layer [col. 2, ll. 64-65].

Regarding claim 12, Francis discloses the measuring electrode is imperforate in a region extending across the storage space [col. 3, ll. 38-44].

Regarding claim 13, see rejection of claim 1.

**Claims 1-4, 11/1-4 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kopecky (US 3590810).**

Regarding claim 1, Kopecky discloses a measuring electrode arrangement having one measuring electrode [1] having a storage space [12] arranged on the side of the electrode facing away from the measurement object, the storage space containing a contact medium [16], the electrode being partially permeable to the contact medium, the contact medium containing ions in a solvent in solution wherein the ions can penetrate through the electrode and the measuring electrode is impermeable for the solvent [col. 2, ll. 24-29].

Regarding claim 2, it is inherent that the electrolyte would be one of the conventional contact mediums as set forth in the claim.

Regarding claim 3, Kopecky discloses the electrode arrangement has an adhesive layer [col. 2, ll. 32-40].

Regarding claim 4, Kopecky discloses the storage space is bordered by a plastic layer [col. 2, ll. 18-20].

Regarding claim 11/1-4, Kopecky discloses providing a measuring electrode arrangement, securing the electrode to a measurement object and applying an electrical impulse to the measurement object [col. 2, ll. 66-69].

Regarding claim 13, see rejection of claim 1.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-10 and 11/5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kopecky in view of Kroll et al. (US Pat. No. 4763660). Kopecky discloses all the limitations as described above, however, fails to disclose an electric shield. Kroll teaches the use of a common electric shield [col. 6, ln. 17-33] located on the side away from the measurement object [Fig. 6] comprised of a conductive material for reducing electrical interference for a plurality of measuring electrodes [Fig. 5]. Kroll also teaches the use of an expandable electrode belt [Fig. 4, col. 4, ln. 48-68] on the body for ease of measuring electrical signals for medical diagnostic and therapeutic purposes [col. 1, ln. 11-15]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Kopecky's invention with a common electric shield and a belt-like carrier as is commonly used in conjunction with measuring electrode arrangements to effect superior signal detection. Regarding claim 7, although individual electric shields were not specifically disclosed above, it would have been obvious to one of ordinary skill in the art at the time of invention to assume individual electric shields produce the same effect as a common electric shield.

Claims 5-10 and 11/5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kopecky in view of Gadsby et al. (US Pat. No. 5341806). Kopecky discloses all the limitations as described above, however, fails to disclose an electric shield. Gadsby teaches a plurality of

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measuring electrodes with a common shield [col. 14, ln. 57-64] on an expandable belt [col. 16, ln. 32-36] for body surface potential mapping. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Kopecky's invention with an electric shield and a belt-like carrier as is commonly used in conjunction with measuring electrode arrangements to effect superior signal detection. Regarding claim 7, although individual electric shields were not specifically disclosed above, it would have been obvious to one of ordinary skill in the art at the time of invention to assume individual electric shields produce the same effect as a common electric shield.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 4220159 A                    USPAT 19800902                    Francis; Howard T. et al. Electrode

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victoria W. Chen whose telephone number is (571) 272-3356. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VWC/

7/27/07

/Lee S. Cohen/  
Primary Examiner  
AU 3739